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BULK FILE

September 12, 2005

Lawrence H. Norton, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2005 SEP 13 1P 2:12

Re: **MUR 5679 (In re Scranton Times, L.P., publisher of *The Times-Tribune* newspaper--complaint of the Republican State Committee of Pennsylvania)**

Dear Mr. Norton:

This letter and the Affidavits of Lawrence Beaupre, Managing Editor, and William R. Lynett, a Publisher, constitute the response of Scranton Times, L.P., owner and publisher of *The Times-Tribune* newspaper to the complaint of the Republican State Committee of Pennsylvania docketed at MUR 5679 alleging multiple violations of the Federal Election Campaign Act of 1971, as amended by the Bipartisan Campaign Reform Act of 2002 (the "Act").

Short summary of this response.

The Commission should find no reason to believe that Respondent, a newspaper enterprise that is not owned or controlled by any political party, political committee, or candidate, violated any provision of the Act because (a) payment for the advertisement described in the complaint is manifestly within the press exemption as that exemption has consistently been construed by the federal district courts and by the Commission itself, and (b) even if the press exemption were not available to Respondent, payment for a printed communication stating merely that a person will be a candidate for federal office, without any express advocacy to vote for that person, disseminated during the months of June, July and August in the year preceding the election cycle, cannot constitute a prohibited contribution, and (c) the Complaint's additional allegation that a slogan in the advertisement constitutes express advocacy to vote for the candidate is frivolous.

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Summary of the Complaint.

The central allegation of the Complaint is that one of the advertisements paid for by Scranton Times, L.P., as part of an advertising campaign to precede and support the launch of a newly-created newspaper, *The Times-Tribune*, constituted a prohibited expenditure because that advertisement (a) showed a picture of the top portion of the front page of the newly-created newspaper that included the headline "Casey to run for Senate" and (b) the advertisement used the slogan "Better Together" printed over the picture of the top portion of the front page of the newly-created newspaper. Photographs of the advertisement are attached to the Complaint, and a full-color copy in 8-1/2 x 11 inches format is attached under Exhibit Tab D to the Affidavit of Lawrence Beaupre, Managing Editor (the "Beaupre Affidavit"). This is the challenged advertisement:



As to the headline, the Complaint contends that its use is outside the "press exemption" because the headline as shown in the advertisement is different from the headlines that actually appeared in *The Scranton Times* and in *The Tribune* over news articles published earlier in 2005 reporting the candidacy of Bob Casey, Jr., for the United States Senate in the election to occur in 2006. See Complaint at page 3, first full paragraph.

As to the slogan "Better Together," the Complaint contends that the slogan, in proximity to the headline, "visually promotes the idea that Casey and the office of United States Senator are better together. This visual constitutes express advocacy for Bob Casey, Jr.'s candidacy." Complaint at page 2, fourth paragraph.

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Based upon the central allegation that the payment for the advertisement is a prohibited expenditure because the advertisement qualified as a public communication advocating Bob Casey, Jr.'s candidacy though the inclusion of the headline and the slogan, the Complaint alleges a variety of violations of the Act, including use of corporate funds, registration, reporting and disclaimer omissions, and a suspicion of illegal coordination with the Casey campaign.

Respondent's counter-statement of the facts.

- 1. Respondent is not owned or controlled by any political party, political committee or candidate.**

The Complaint does not contend that *The Times-Tribune* newspaper is owned or controlled by any political party, political committee or candidate. The Affidavits of Lawrence K. Beaupre ("Beaupre Aff.") and William R. Lynett, one of the Publishers ("Lynett Aff.") establish that the newspaper is owned by Scranton Times, L.P., a Pennsylvania limited partnership, and unqualifiedly deny that the newspaper is owned or controlled by any political party, political committee or candidate (Beaupre Aff. ¶¶ 2-3; Lynett Aff. ¶¶ 7-9). Indeed, none of the individuals who are the beneficial owners of the newspaper have ever been a candidate for public office (Lynett Aff. ¶ 6).

- 2. The challenged advertisement was created and disseminated to support the launch of a newly-created newspaper formed by the combination of two separate newspapers owned by Respondent.**

The Beaupre Affidavit sets forth the details, based on the Managing Editor's personal knowledge, of the advertising campaign (the "Advertising Campaign") commissioned by Scranton Times, L.P., to precede and support the launch of the newly-created newspaper, *The Times-Tribune*, which resulted from the combination, as of June 27, 2005, of the former afternoon newspaper, *The Scranton Times*, with the former morning newspaper, *The Tribune*. Mr. Beaupre explains the use in that Advertising Campaign of a prototype of the new combined newspaper (the "Prototype"), showing the new logo of *The Times-Tribune* and the headline over the lead article in that Prototype "Casey to run for Senate." Mr. Beaupre personally wrote the headline "Casey to run for Senate" as it appeared in the Prototype.

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In 2004, management of Scranton Times, L.P., decided upon a major change in the business of the enterprise that would include the creation of a new combined newspaper, intended to maintain the loyalty of the readership of the two separate newspapers by selecting the better features of each of those separate newspapers, accompanied by the installation of a new computer system to create the newspaper, as well as significant changes in newsgathering within the circulation area and in the delivery and distribution of the new combined newspaper (Beaupre Aff. ¶ 4).

To assist in the launch of the new combined newspaper, Scranton Times, L.P., employed several professional consultants, including Mennenga & Associates, Santa Rosa, CA, a consumer research organization experienced in the management of consumer focus groups. Four groups of readers of the two separate newspapers, selected to be a cross-section of the readership, were used to evaluate potential changes resulting from the combination of the two newspapers. Mennenga & Associates supervised the process by which the four groups, with not less than ten persons in each group, two groups from the readership of *The Scranton Times* and two groups from the readership of *The Tribune*, were consulted in connection with the creation of the new combined newspaper (Beaupre Aff. ¶ 5).

For use in the consumer focus group process, Managing Editor Beaupre prepared a prototype of the proposed combined newspaper (the "Prototype"), consisting of forty-four pages, starting with page one, showing a new logo and new front-page typography, and continuing through all sections and pages of a typical issue of the proposed combined newspaper; a copy (reduced in size to 8-1/2 by 11 inches) of the front page of the Prototype is attached under Exhibit Tab A to his Affidavit; one complete example of the forty-four page Prototype is submitted separately as Exhibit A-1 (Beaupre Aff. ¶ 6).

In order to create the Prototype, Managing Editor Beaupre selected various news articles and features from recent issues of both separate newspapers, as well as from other sources. He states that he selected the two news articles that appear on the front page of the Prototype because those two articles, one describing Bob Casey, Jr.'s, decision to run for the Senate (the "Casey Article") and the other describing the Terry Schiavo litigation, were two important recently published news articles within the Scranton circulation area that would be typical of the front page coverage in the proposed combined newspaper (Beaupre Aff. ¶¶ 7-8).

Concerning the headline for the Casey Article as it appears in the Prototype, Managing Editor Beaupre testifies as follows:

When the Casey Article had been originally published in *The Scranton Times*, the article had the headline "Hafer Out, Casey In," and as published in *The Tribune*, had the

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headline "Casey at Bat"; I personally changed the headline to the more simple "Casey to run for Senate" because the more complicated headline "Hafer Out, Casey In" and the somewhat clever or cute headline "Casey at Bat" seemed to me to be inconsistent with the purpose of the focus group process in which the Prototype was to be used to gauge consumer reaction to the changes from the prior separate newspapers that were to be made in the proposed combined newspaper and not the merits of a particular news article or headline; in other words, I made the change to the headline on the Casey news article in order to use a bland headline that would avoid interfering with the intended focus group process.

(Beaupre Aff. ¶ 9). The Managing Editor also testifies that "I made the change in the headline on the Casey news article in the Prototype solely on my own initiative and, to the best of my recollection, without consulting anyone else prior to making that change in the headline" (Beaupre Aff. ¶ 10).

The Prototype was used in the focus group process and resulted in the recommendations that are set forth in the Management Summary prepared by Mennenga & Associates, the focus group consultants, a copy of which is attached under Exhibit Tab B to the Beaupre Affidavit (Beaupre Aff. ¶ 11).

The Advertising Campaign to support the new combined newspaper was conceived and implemented by Condron & Company, an advertising agency located in Scranton, PA (Beaupre Aff. ¶ 12). Managing Editor Beaupre testifies as follows concerning the use in one advertisement of the Prototype that he had earlier created for use in the focus group process:

The Prototype was reproduced for use in the Advertising Campaign because, after the concept for the Advertising Campaign had been refined by the advertising agency and the slogan had been selected, the advertising agency asked me for a reproduction of the front page of the proposed combined newspaper that could be photographed and incorporated in the graphics to be used in the advertising.

When the request was made by the advertising agency for a reproduction of the front page of the proposed combined newspaper, the only example that was available was the front page of the forty-four page Prototype that I had created for use in the focus group process and, with the approval of management, I provided the front page of the Prototype to the advertising agency; the advertising agency used the front page of the Prototype to create the graphic for one of the advertisements that was used in the Advertising Campaign, a copy of which is attached under Exhibit Tab D; the advertising agency used actual copies of *The Tribune* (March 17, 2005) and *The Scranton Times* (April 15, 2005) to create the graphic for another advertisement that was used in the Advertising Campaign, a copy of which is attached under Exhibit Tab E.

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(Beaupre Aff. ¶¶ 15-16).

Managing Editor Beaupre also refutes the accusation made at page 2 of the Complaint that the slogan "Better Together," as used in the Advertising Campaign, constitutes "express advocacy" intended to refer to Bob Casey, Jr., and the Senate. The Beaupre Affidavit explains, and provides documentation to establish, that the slogan "Better Together" evolved from various possible slogans suggested by the advertising agency, including "Singular Sensation," "One and Only," and "Better Together," and was eventually chosen in part because "Better Together" as a slogan could be supported by reference to the popular song, "Happy Together," associated with the singing group known as "The Turtles" (Beaupre Aff. ¶ 13).

Copies of pertinent documents from Mr. Beaupre's file relating to the Advertising Campaign, including documents referring to the evolution of the slogan "Better Together," are attached under Exhibit Tab C. As reflected in those documents, the challenged advertisement was preceded by other "teaser" advertisements playing on the theme "Better Together," including one that used an illustration of mustard being squeezed onto a soft pretzel (an iconic Pennsylvania pairing of tastes, frequently sold by sidewalk vendors in Pennsylvania cities and towns). Illustrations for three of these "teaser" advertisements are the last three pages of Exhibit C.

Contrary to the allegation that the slogan "Better Together" referred to Bob Casey, Jr. and the Senate, Managing Editor Beaupre testifies that, to his best knowledge and belief, no one associated with Scranton Times, L.P. ever intended or understood the meaning alleged in the Complaint and that, to the contrary, the slogan "Better Together" was intended to refer to the combination into one newspaper of the two newspapers that had previously been published separately. (Beaupre Aff. ¶16).

Managing Editor Beaupre also refutes the suspicion alleged in the Complaint, entirely without any factual predicate, that the use of the headline and slogan in the Advertising Campaign was the result of coordination with the Casey Campaign:

At no time, down to the present, did I, or, to the best of my knowledge, anyone else associated with Scranton Times, L.P., and *The Times-Tribune* newspaper, communicate with Bob Casey, Jr., or the Bob Casey for Pennsylvania Committee concerning the Advertising Campaign or the use in the Advertising Campaign of a reproduction of the front page of the Prototype (except in connection with news coverage of the controversy resulting from the accusations by Republican officials that culminated in the instant complaint docketed at MUR 5679; all such communications were by reporters seeking

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comment from the Bob Casey for Pennsylvania Committee in the ordinary course of newsgathering).

(Beaupre Aff. 17.)

The facts set forth in the two Affidavits demonstrate, as stated therein, that "[t]he sole intended purpose of the Advertising Campaign was to promote the newspaper business of Scranton Times, L.P." (Beaupre Aff. ¶ 19; Lynett Aff. ¶ 2).

Legal Analysis.

- A. Payment for the challenged advertisement is manifestly within the press exemption as consistently interpreted by the federal district courts in decisions that have been accepted by the Commission.**

As stated in the most recent of the federal district court decisions to consider the scope of the "press exemption" set forth in 2 U.S.C. § 431(9)(B)(i), *FEC v. Multimedia Television, Inc.*, 1995 U.S. Dist. Lexis 22404, Civil Action No. 94-1520 (D. Kan. 1995), at *11-12:

The express exclusion of certain press entities from FECA regulation indicates the Commission has no authority to investigate protected activities. If the press exemption applies the Commission lacks jurisdiction to inquire into the substantive allegations of the complaint. It is important, then, for the court to carefully examine whether the [C]ommission has jurisdiction to proceed with its inquiry. Other courts have so held. *Reader's Digest Assoc. v. Fed. Election Comm'n*, 509 F. Supp. 1210, 1214 (S.D.N.Y. 1981); *Fed. Election Comm'n v. Machinists Non-Partisan Political League*, 210 U.S. App. D.C. 267, 655 F.2d 380, 397 (D.C. Cir.), cert. denied, 454 U.S. 897 (1981); *Fed. Election Comm'n v. Phillips Publishing*, 517 S. Supp. 1308, 1312 (D.D.C. 1981).

The district court holding that places the challenged advertisement for *The Times-Tribune* squarely within the scope of the press exemption is *Phillips Publishing*, in which the mailing sent by a conservative newsletter, titled "The Pink Sheet on the Left," to regular and potential subscribers "strongly emphasized the Pink Sheet's opposition to the campaign and philosophy of Senator [Edward] Kennedy." *Multimedia Television, infra*, at *15. But "[b]ecause the purpose of the solicitation letter was to publicize the Pink Sheet and obtain new subscribers, its distribution was a 'normal, legitimate press function' and the press exemption applied." *Multimedia Television, infra*, at *16.

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After consideration of the Complaint, which does not allege any facts that would cause the instant challenged advertisement to be treated differently than the letter mailed to potential subscribers in the *Phillips Publishing* case, and after consideration of the detailed explanation of how the challenged advertisement was created and the purposes that were intended to be served by its dissemination, as demonstrated in part of the documents submitted as Exhibit C, the Commission should determine that the press exemption applies and that there is no reason to believe that payment for the advertisement constituted an expenditure or contribution. If the press exemption does apply, then

“the complaint’s allegations of prohibited and excessive contributions must fall. Because no expenditures were made, the complaint’s allegations of prohibited independent expenditures, as well as its allegations pertaining to registration, reported and disclaimers, must also fall.”

See First General Counsel’s Report in MUR 4863 (May 28, 1999), *Sean Hannity* at 10 (imaged at 99.04.392.1136).

- B. Even if the press exemption did not apply, the publication merely that a person has decided to seek federal office, disseminated in the middle of the calendar year preceding the calendar year in which the federal election will occur, cannot constitutionally be held to constitute prohibited advocacy to vote for that person.**

Because the press exemption manifestly does apply, Respondent will not argue at length the question of whether the publication of the statement “Casey to run for Senate,” disseminated in the middle of the calendar year 2005 preceding the year of the federal election in 2006, could be deemed to constitute express advocacy that could be regulated by Congress or by the Commission. Respondent does urge that consistent with both *Buckley v. Valeo*, 424 U.S. 1, 44, n. 52 (1976), and *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 288, 248-49 (1986), whatever effect the publication of the headline might have on Pennsylvania voters is not sufficiently tangible to permit application to that publication of the federal regulatory scheme.

- C. The Complaint’s contention that the slogan used in the advertisement constitutes express advocacy for the Senate candidate is frivolous.**

Perhaps recognizing that the constitutionally-required element of “express advocacy” is not supplied by the challenged headline, the Complaint strains to argue that the slogan “Better Together,” refers to Casey and the Senate, rather than to the combination of the two separate newspapers to create *The Times-Tribune*. Complaint at page 2, fourth paragraph. Neither the advertisement itself nor any logic or extrinsic evidence supports this contention, which is also refuted in detail by the testimony of Managing Editor Beaupre (Beaupre Aff. ¶ 13). If the

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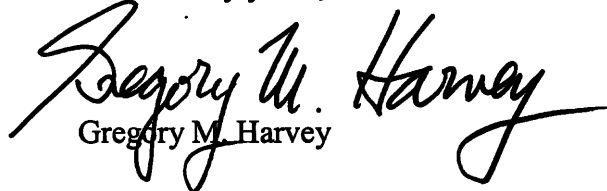
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Commission finds it necessary to consider the merits of this contention, the Commission should determine that the contention is frivolous.

Conclusion.

For the reasons stated, the Commission should determine that the press exemption manifestly applies to the challenged Advertising Campaign, including the challenged portion of the advertisement specified in the Complaint, and that the Commission lacks jurisdiction to inquire into the substantive allegations directed to that advertisement. If the Commission has any doubt concerning the availability to Respondent of the press exemption, the Commission may also consider the virtual absence of express advocacy in the phrase challenged in the Complaint ("Casey to run for Senate"), if that phrase is considered independently of the frivolous meaning attributed by the Complaint to the slogan "Better Together."

Respectfully yours,


Gregory M. Harvey

cc: Joseph J. O'Brien, Esquire
Haggerty, McDonnell & O'Brien
Scranton, PA

26044150697

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ELECTION COMMISSION

RE: MUR 5679

(In re Scranton Times, L.P., publisher of the *The Times-Tribune* newspaper—
complaint of the Republican State Committee of Pennsylvania)

AFFIDAVIT OF LAWRENCE K. BEAUPRE

LAWRENCE K. BEAUPRE, being duly sworn, deposes and says:

1. I am Managing Editor of *The Times-Tribune* newspaper, against which the Republican State Committee of Pennsylvania has complained by letter dated August 18, 2005, docketed as MUR 5679, and have personal knowledge of the advertising campaign (the "Advertising Campaign") commissioned by my employer, Scranton Times, L.P., to precede and support the launch of a newly-created newspaper, *The Times-Tribune*, which resulted from the combination, as of June 27, 2005, of the former afternoon newspaper, *The Scranton Times*, with the former morning newspaper, *The Tribune*, and the use in that Advertising Campaign of a prototype of the new combined newspaper (the "Prototype"), showing the new logo of *The Times-Tribune* and the headline over the lead article in that Prototype "Casey to run for Senate"; I personally wrote the headline "Casey to run for Senate" as it appears in the Prototype and as described in detail in paragraphs 8-9 of this Affidavit.

2. As appears from the Affidavit of William R. Lynett, publisher of *The Times-Tribune*, the owner of the new combined newspaper is Scranton Times, L.P., a Pennsylvania limited partnership, which also owned the two newspapers that were combined to create *The Times-Tribune*.

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3. To my personal knowledge and as also appears from the Affidavit of William R. Lynett, the newspaper *The Times-Tribune* is not "owned or controlled by any political party, political committee or candidate."

4. In 2004, management of Scranton Times, L.P., decided upon a major change in the business of the enterprise that would include the creation of a new combined newspaper, intended to maintain the loyalty of the readership of the two separate newspapers by selecting the better features of each of those separate newspapers, accompanied by the installation of a new computer system to create the newspaper, as well as significant changes in newsgathering within the circulation area and in the delivery and distribution of the new combined newspaper.

5. In 2005, in order to assist in the launch of the new combined newspaper, Scranton Times, L.P., employed several professional consultants, including Condron & Company, Scranton, PA, an advertising agency, and Mennenga & Associates, Santa Rosa, CA, a consumer research organization experienced in the management of consumer focus groups; by "consumer focus groups" I mean groups of readers of the two newspapers, selected to be a cross-section of the readership, who were used to evaluate potential changes resulting from the combination of the two newspapers; Mennenga & Associates supervised the process by which four groups of not less than ten persons in each group, two groups from the readership of *The Scranton Times* and two groups from the readership of *The Tribune*, were consulted in connection with the creation of the new combined newspaper.

6. For use in the consumer focus group process described in paragraph 5, I prepared a prototype of the proposed combined newspaper (the "Prototype"), consisting of forty-four pages, starting with page one, showing a new logo and new front-page typography, and continuing through all sections and pages of a typical issue of the proposed combined

newspaper; a copy (reduced in size to 8-1/2 by 11 inches) of the front page of the Prototype is attached under Exhibit Tab A; one complete example of the forty-four page Prototype is submitted separately as Exhibit A-1.

7. In order to create the Prototype, I selected various news articles and features from recent issues of both separate newspapers and created certain other material for the Prototype.

8. I selected the two news articles that appear on the front page of the Prototype because those two articles, one describing Bob Casey, Jr.'s, decision to run for the Senate (the "Casey Article") and the other describing the Terry Schiavo litigation, were two important recently published news articles within the Scranton circulation area and would be typical of the front page coverage in the proposed combined newspaper.

9. When the Casey Article had been originally published in The Scranton Times, the article had the headline "Hafer Out, Casey In," and as published in The Tribune, had the headline "Casey at Bat"; I personally changed the headline to the more simple "Casey to run for Senate" because the more complicated headline "Hafer Out, Casey In" and the somewhat clever or cute headline "Casey at Bat" seemed to me to be inconsistent with the purpose of the focus group process in which the Prototype was to be used to gauge consumer reaction to the changes from the prior separate newspapers that were to be made in the proposed combined newspaper and not the merits of a particular news article or headline; in other words, I made the change to the headline on the Casey news article in order to use a bland headline that would avoid interfering with the intended focus group process.

10. I made the change in the headline on the Casey news article in the Prototype solely on my own initiative and, to the best of my recollection, without consulting anyone else prior to making that change in the headline.

11. The Prototype was used in the focus group process and resulted in the recommendations that are set forth in the Management Summary prepared by Mennenga & Associates, a copy of which is attached under Exhibit Tab B.

12. The Advertising Campaign to support the new combined newspaper was conceived and implemented by Condron & Company, an advertising agency.

13. An accusation made at page 2 of the complaint is that the slogan "Better Together," as used in the Advertising Campaign, constitutes "express advocacy" intended to refer to Bob Casey, Jr., and the Senate, to which I respond that the slogan "Better Together" evolved from various possible slogans suggested by the advertising agency, including "Singular Sensation," "One and Only," and "Better Together," and was eventually chosen in part because "Better Together" as a slogan could be supported by reference to the popular song, "Happy Together," associated with the singing group known as "The Turtles"; copies of pertinent documents from my file relating to the Advertising Campaign, including documents referring to the evolution of the slogan "Better Together," are attached under Exhibit Tab C .

14. To my best knowledge and belief, no one associated with Scranton Times, L.P. ever intended or understood that the slogan "Better Together" referred to Bob Casey, Jr. and the Senate; to the contrary, the slogan "Better Together" was intended to refer to the combination into one newspaper of the two newspapers that had previously been published separately.

15. The Prototype was reproduced for use in the Advertising Campaign because, after the concept for the Advertising Campaign had been refined by the advertising agency and the slogan had been selected, the advertising agency asked me for a reproduction of the front page of the proposed combined newspaper that could be photographed and incorporated in the graphics to be used in the advertising.

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16. When the request was made by the advertising agency for a reproduction of the front page of the proposed combined newspaper, the only example that was available was the front page of the forty-four page Prototype that I had created for use in the focus group process and, with the approval of management, I provided the front page of the Prototype to the advertising agency; the advertising agency used the front page of the Prototype to create the graphic for one of the advertisements that was used in the Advertising Campaign, a copy of which is attached under Exhibit Tab D; the advertising agency used actual copies of *The Tribune* (March 17, 2005) and *The Scranton Times* (April 15, 2005) to create the graphic for another advertisement that was used in the Advertising Campaign, a copy of which is attached under Exhibit Tab E.

17. At no time, down to the present, did I, or, to the best of my knowledge, anyone else associated with Scranton Times, L.P., and *The Times-Tribune* newspaper, communicate with Bob Casey, Jr., or the Bob Casey for Pennsylvania Committee concerning the Advertising Campaign or the use in the Advertising Campaign of a reproduction of the front page of the Prototype (except in connection with news coverage of the controversy resulting from the accusations by Republican officials that culminated in the instant complaint docketed at MUR 5679; all such communications were by reporters seeking comment from the Bob Casey for Pennsylvania Committee in the ordinary course of newsgathering).

18. As referred to in exhibits attached to the complaint, *The Times-Tribune* published on August 8, 2005 on its editorial page a letter from the Chairman of the Republican Committee of Lackawanna County, in which the City of Scranton is located, criticizing the use of the Prototype in the Advertising Campaign; that letter was published in its entirety without any

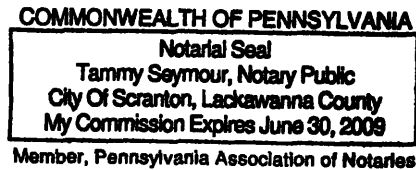
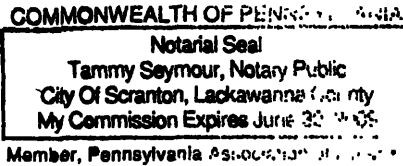
comment by the editors of the newspaper; a copy of the letter as published is attached under Exhibit Tab F.

19. The sole intended purpose of the Advertising Campaign was to promote the newspaper business of Scranton Times, L.P.


Lawrence K. Beaupre

Sworn to and subscribed before me
this 9th day of September, 2005.


Notary Public





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Exhibit D

26044150706



RECYCLED

The Scranton Times

The Times Tribune

Casey to run for Sen.

The Tribune

Better Together

The Times-Tribune

Exhibit D

26044150708



RECYCLED

Some Things Are
Better
Together...

The Times-Tribune

A Great Combination Coming June 27



26044150710



Exhibit F

EDITORIAL

AUGUST 8, 2005

A10 THE TIMES-TRIBUNE, SCRANTON, PA

Casey benefits in ad campaign

Editor: Ever since the morning and evening newspapers were combined into the new morning newspaper, local residents have been subjected to an advertising campaign that is obviously political in nature.

Under the guise of promoting the new morning newspaper, viewers of this media campaign are shown a sample morning newspaper that carries the following headline in bold type, "Casey to run for Senate."

That newspaper, with its prominent headline, appears in all the print, television and billboard advertising for the morning newspaper. The huge problem with this is that no such headline ever appeared in the new Times-Tribune newspaper.

It is clear this sample newspaper was developed to promote both the new morning newspaper and Mr. Casey's candidacy. Your morning newspaper debuted on June 27. Mr. Casey announced his candidacy on March 4. Given these dates, partisan politics is the only plausible explanation for why such a pro-Casey headline was used for this advertising campaign.

This "two-for-one" advertising campaign should stop immediately. It simply functions as an in-kind contribution to the Casey campaign. Strongly worded editorials are one thing, but subliminal advertising on behalf of a particular Senate candidate is totally wrong and runs counter to any notion of journalistic integrity.

An organization that cares about its credibility would immediately pull the subliminal advertising and apologize to its readers for such a lapse in judgment.

PAUL CATALANO

Chairman, Republican Committee
of Lackawanna County
Scranton

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**MUR 5679 (In re Scranton Times, L.P., a publisher
of *The Times-Tribune* newspaper—complaint of the
Republican State Committee of Pennsylvania)**

EXHIBIT A-1

MUR 5679

DOING RIGHT BY RAY | **DOWNWARD SPIRAL** | Exhibit A-1 to Affidavit of Lawrence
Jamie Foxx, a stirring soundtrack | A long basketball season gets longer
worth three stars. **Lifestyles, C6** | as Penn State falls to Ohio. **Sports, B1**

WWW.THETIMES-TRIBUNE.COM

The Times-Tribune

NORTHEASTERN PENNSYLVANIA'S LARGEST NEWS TEAM

NEWS
HOME DELIV

MONDAY, APRIL XX, 2005



Casey to run for Senate

State treasurer to challenge Rick Santorum

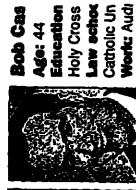
BY MORTY KUZANZENNIK
STAFF WRITER

Barbara Hafer dropped her fledgling bid for the office of Allegheny County, then Mr. Casey declined to discuss Mrs. Hafer's brief step into and quick-step out of a race that is expected to draw nationwide attention by the fall, when the Democratic win seat, a move that came as Gov. Ed Rendell endorsed his candidacy and former Treasurer incumbent U.S. Sen. Rick Santorum, R-Penn. Hills, Mr. Casey said he and Mrs. Hafer, of Allegheny County, had a warm and very friendly phone conversation Friday.

The announcement was issued through a news release it culminated a three-day whirlwind that had Mrs. Hafer announce she's running for U.S. House of Representatives in the 12th district, which includes Allegheny County.

Wednesday — just before Mr. Casey was about to announce — claim she had Mr. Rendell's endorsement Thursday, then withdrew from the race when the governor called her Friday. Her entry into the race raised concerns among state Democratic Party Chairman T.J. Rooney and others who feared a divisive primary fight.

Please see **CASEY**, Page A6



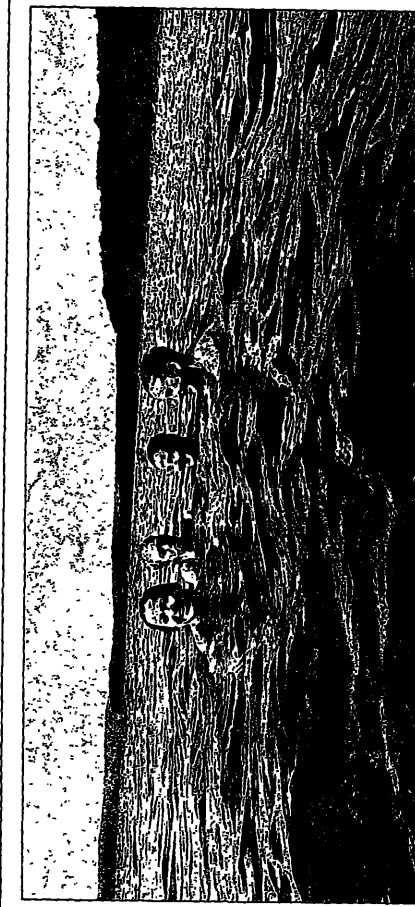
Bob Casey
Age: 44
Education: Holy Cross
Law school: Catholic University
Work: Auditor General
2004, state treasurer in 21st Family: Wife, Teresa, daughter, Caroline, Julia and Ma
Note: The oldest son of late Gov. Robert P. Casey

Sparks fly outside Schiavo's hospice

BY MANUEL ROIG-FRANZIA
THE WASHINGTON POST

PINELLAS PARK, Fla. Sparks of anger briefly altered the mostly peaceful atmosphere of demonstrations outside Terri Schiavo's hospice on Easter Sunday as a small group of protesters grew increasingly frustrated that the legal fight to keep the brain-damaged woman alive has ended.

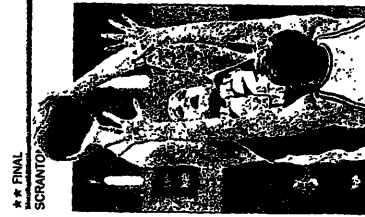
The arrest of two demonstrators who tried to cross police lines to deliver a glass of water to Ms. Schiavo prompted



BUTCH COVERTS / STAFF PHOTOGRAPHER
Having Lake Wallenpaupack all to themselves, best friends, from left, Kelsey Duhaack, 15, of Savannah, Georgia; Lindsey Lee, 16, and Lauren Dock, 16, both of Macungie, and Janelle Krobath, 12, of Northampton, go for an early swim in Pike County.

JUMP IN: THE WATER'S FINE

Scientists are close to returning area lakes and rivers to turn-of-century prominence



Bishop Hannan loses in playoffs

The Bishop Hannan Lancers lost in their bid to reach the state tourney on Tuesday losing to rival Bishop O'Hara, 69-67, in Dunmore. **Sports, B1**

G-Mac scores 21 as Syracuse rolls

Gerry McNamara scored 21 points, draining four 3-pointers to lead Syracuse to a win in the first round of the Big East tournament. Syracuse will hook up with Georgetown on Saturday at 2 p.m. **Sports, B1**

'Cats' new all over town this weekend

Maligned by critics, but adored by fans, the blockbuster musical "Cats" will stage five shows at the Scranton Cultural Center this weekend. Check out the show times and some "feline facts." **Lifestyles, A3**

Area soldiers ease back into home life

Area soldiers are home, but

BEFORE THE
FEDERAL ELECTION COMMISSION

RE: MUR 5679

(In re Scranton Times, L.P., publisher of the *The Times-Tribune* newspaper—
complaint of the Republican State Committee of Pennsylvania)

AFFIDAVIT OF WILLIAM R. LYNETT

WILLIAM R. LYNETT, being duly sworn, deposes and says:

1. I am a Publisher of *The Times-Tribune* newspaper, against which the Republican State Committee of Pennsylvania has complained by letter dated August 18, 2005, docketed as MUR 5679, and have personal knowledge of the advertising campaign (the "Advertising Campaign") commissioned by Scranton Times, L.P., the owner of that newspaper, to precede and support the launch of a newly-created newspaper, *The Times-Tribune*, which resulted from the combination, as of June 27, 2005, of the former afternoon newspaper, *The Scranton Times*, with the former morning newspaper, *The Tribune*.

2. The sole intended purpose of the Advertising Campaign was to promote the newspaper business of Scranton Times, L.P.

3. The owner of the new combined newspaper, *The Times-Tribune*, is Scranton Times, L.P., a Pennsylvania limited partnership, which also owned the two newspapers that were combined to create *The Times-Tribune*; I have personal knowledge of the ownership of the new combined newspaper because I am one of the limited partners in Scranton Times, L.P.

4. The general partner in Scranton Times, L.P. is Times Partner, L.L.C., a Pennsylvania limited liability company, which became the general partner in September 2004.

5. The beneficial owners of all ownership interests in Scranton Times, L.P., are individuals who are descendants of Edward James Lynett (the "Lynett Family").

6. To my knowledge, none of the persons who are beneficial owners of ownership interests in Scranton Times, L.P. have been candidates for public elective

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office (the spouse of a beneficial owner was a candidate for U.S. Congress in 1964 and for the Pennsylvania State Senate in 1966, but that person is not a beneficial owner).

7. To my personal knowledge, Scranton Times, L.P., and its newspaper *The Times-Tribune* are not "owned or controlled by any political party, political committee or candidate."

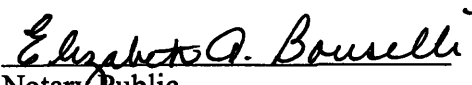
8. Prior to September, 2004, The Times Partner, a general partnership, was the general partner of Scranton Times, L.P. The Scranton Times, Inc. is an inactive Pennsylvania corporation and has no ownership interest in *The Times-Tribune*.

9. The Towanda Printing Company owns and publishes *The Daily Review*, a newspaper, in Towanda, Pennsylvania; The Towanda Printing Company has no interest in or control of *The Times-Tribune*.

10. For the reasons stated herein, only Scranton Times, L.P. appears as a respondent in this matter and neither The Scranton Times, Inc. nor The Towanda Printing Company should have been named as respondents.


William R. Lynett

Sworn to and subscribed before me
this 9th day of September, 2005.


Notary Public

